

### **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks. Support for the claim amendments and additions can be found in the original disclosure at, for instance, original claim 38. No new matter has been added.

### **ALLOWABLE SUBJECT MATTER**

In the Action, the Office objects to dependent claim 38 but states that this claim would be allowable in re-written in independent form. Applicant thanks the Office for this indication and herein amends independent claim 1 to correspond to now-canceled claim 38. Furthermore and as discussed below, Applicant also includes this subject matter in the remaining independent claims, thus also placing these claims in condition for allowance.

### **§ 101 REJECTIONS**

Claims 12, 14, 16, 17, 19, 21-23, 32, 34, 36 and 37 are allegedly rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Specifically, claims 12, 14, 16, 17, 19 and 21-23 are allegedly directed to a method or process they are not directed to a statutory process under § 101 because they fail to be tied to another statutory class, such as a particular apparatus, or directed to transforming an article or material to a different state or thing.

Applicant respectfully traverses the rejection. Nevertheless, without conceding the propriety of the rejection and in the interest of expediting allowance of the application, independent claim 12 is amended. Specifically, claim 12 now

recites, “One or more computer-readable memories containing a computer program that is executable by one or more processors, the computer program causing the one or more processors to...” During the interview, Applicant asserted that claim 12 as amended is tied to a statutory class. Applicant understood the Examiner to appreciate Applicant’s argument.

Relative to claim 32, 34, 36 and 37-the Office stated that the recitation of a computer-readable media is allegedly not sufficient to allow the functionality of the computer program to be realized because the paragraph spanning pages 13-14 of the specification defines the computer-readable media as including a communication media which in turn includes a carrier wave which is a “signal” and a ”signal” encoded with functionally descriptive material does not allow the functionality to be realized.

Applicant respectfully traverses the rejection. Nevertheless, without conceding the propriety of the rejection and in the interest of expediting allowance of the application, the specification is amended above. Applicant respectfully request withdrawal of the rejections.

### **§ 102 REJECTIONS**

Claims 1, 4, 6-12, 14, 16-19, 21-25, 27, 28, 30-32, 34, 36 and 37 are rejected under 35 U.S.C. § 102(e) as being anticipated by DeBellis et al (DeBellis) U.S. Pat. No. 6,044,388. Applicant respectfully traverses the rejection. Nevertheless, without conceding the propriety of the rejection and in the interest of expediting allowance of the application, **Applicant herein amends independent claims 1, 11, 12, 25 and 32 to incorporate the subject matter of claim 38, which the Office deems as allowable in the pending Action.** Applicant

sincerely thanks the Examiner for indicating that dependent claim 38 contains allowable subject matter.

For at least this reason, Applicant respectfully submits that independent claims 1, 11, 12, 25 and 32 stand allowable.

**Dependent claims 4, 6, 7 and 9-10**, which depend from independent claim 1, **dependent claims 14 and 17**, which depend from independent claim 12, **dependent claims 27, 28 and 31**, which depend from independent claim 25, and **dependent claims 34, and 37**, which depend from independent claim 32 are all allowable by virtue of their dependencies, as well as for additional features that they recite. Applicant respectfully requests the § 102 rejection of these claims be withdrawn.

## CONCLUSION

For at least the foregoing reasons, the pending claims are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance. If any issue remains unresolved that would prevent allowance of this case, Applicant respectfully requests the Office to contact the undersigned attorney to resolve the issue.

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